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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**INTERIM APPLICATION NO. 7244 OF 2025
IN
FIRST APPEAL NO. 952 OF 2019**

Sona Udyog Premises Co-operative Housing Society ...Applicant.
Ltd.

IN THE MATTER BETWEEN

Sona Udyog Premises Co-operative Housing Society
Ltd. ...Appellant

Versus

M/s. Grand Marbles Industries Private Limited ...Respondent.

*Mr. M.M.Vashi, Senior Advocate a/w. Panthi Desai i/b. M/s. M.P.Vashi &
Associates, for the Applicant.
None for the Respondent.*

Coram : Sharmila U. Deshmukh, J.

Date : April 17 , 2025.

P. C. :

1. Present Interim Application has been preferred seeking recall of the order dated 26th August 2024, and for modification of the order of 4th March 2024.
2. At the outset, Mr. Vashi, learned Senior Advocate appearing for Appellant seeks leave to amend prayer clause to incorporate a prayer for modification of the order dated 4th March 2024.
3. Leave granted, amendment to be carried out forthwith.
4. By the present Application the Applicant seeks recall of the

order dated 26th August 2024, and modification of the order dated 4th March 2024, as regards the service upon the unserved Respondent and for condonation of delay of 163 days caused in preferring the Interim Application.

5. Mr. Vashi, would submit that in the First Appeal an application was taken out for appointment of Court Receiver and by order of 26th August 2024, the Applicant was permitted to serve the Respondent by all possible modes of service. He submits that as the whereabouts of Respondent were not known, an application was taken out in the First Appeal for substituted service, which came to be allowed and service was effected, which was recorded in the order of 25th March 2022. He submits that the First Appeal was already admitted and by Order of 25th March 2022, date was fixed for hearing of the Appeal. He submits that though the Respondent was served through paper publication by order of 4th March 2024, this Court directed issuance of fresh notice for the purpose of final disposal of the Appeal, which led to passing of the conditional order of 26th August 2024, by the Registrar (Judicial-II) of dismissal of the First Appeal for not taking steps as directed by the order of 4th March 2024. He submits that as the Respondent has already been served through paper publication, the order of 4th March 2024, be modified and the order of 26th August 2024, passed by the Registrar (Judicial-II), be recalled.

6. Perusal of the orders which have been pointed out by learned Senior Advocate Mr.Vashi, would indicate that this Court had permitted the Respondent to be served through paper publication and despite thereof none appears on behalf of the Respondents. As the First Appeal was to be taken up for final hearing the application was not adjudicated. The order of 25th March 2022, records that the service on the Respondent is complete. In the light of the said observations in the order of 25th March 2022, there is no requirement of issuance of any fresh notice to the Respondent.

7. As the service upon the unserved Respondents is complete by paper publication, the order of 4th March 2024, is modified by recalling the direction of issuance of fresh notice to the Respondent. As the direction of issuance of fresh notice upon Respondent stands modified, the order of 26th August 2024, of the Registrar (Judicial-II) is recalled.

8. The Appeal will have to be listed for final hearing. Liberty to mention after Vacation.

9. Interim Application is allowed.

[Sharmila U. Deshmukh, J.]